

63610

A. G. Contract No. KR910247TRD
ECS File: JPA 91-16
Project: M-703-1(1)
Fund: 7031 MA PHX S S010 01C
Section: Thunderbird Road
40th Street - 52nd Street

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF PHOENIX

THIS AGREEMENT is entered into 23 October, 1992,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
CITY OF PHOENIX, acting, acting by and through its CITY COUNCIL
(the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The City is empowered by Arizona Revised Statutes
Section 48-572 and City Charter Chapter 2 Section 2 to enter
into this agreement and has by resolution, a copy of which is
attached hereto and made a part hereof, resolved to enter into
this agreement and has authorized the undersigned to execute
this agreement on behalf of the City.

3. Congress has authorized appropriations for, but not
limited to, the construction of streets and primary, feeder and
farm-to-market roads; the replacement of bridges; the
elimination of roadside obstacles; and the application of
pavement markings.

4. Such project within the boundary of the City has been
selected by the City; the field survey of the project has been
completed; and the plans, estimates and specifications have
been prepared and, as required, submitted to the Federal
Highway Administration ("FHWA") for its approval.

NO. <u>17184</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>10/23/92</u>
<u>Richard H. Shoney</u> Secretary of State
By <u>Henry Greenewald</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced in this agreement shall be accomplished by City forces. The work and the estimated cost are as follows: ROADWAY RECONSTRUCTION

Estimated Total Project Cost	\$2,925,211.00
Federal Aid Funds	\$2,570,232.00
Two Percent Surcharge	\$ 58,504.00
City of Phoenix funds	\$ 354,979.00
Subtotal Local Funds	\$ 413,483.00*
City of Phoenix share of CE Cost (Credit for Self Administration)	\$ (46,302.00)
Total Local Funds	\$ 367,181.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will authorize the City to proceed with the work and will enter into a Project Agreement with FHWA covering the work embraced in this agreement and will request the maximum federal funds available.

b. The State will furnish the City with a copy of the proposed Project Agreement to be entered into by the State and FHWA. Upon approval of the terms and conditions of the Project Agreement, the agreement shall be incorporated in and made a part of this agreement by reference and shall have the same force and effect as though fully written herein.

c. The City will be reimbursed at the unit cost for each item shown in the Project Agreement (except as may be revised by a supplemental agreement) for the amount of work performed under that item.

2. The City shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

3. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom.

4. The City shall perform the work with its own forces in accordance with the approved plans and specifications and shall notify the State at the beginning and at the completion of the work.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

7. The City shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the City shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, the engineering in connection therewith, and the construction of the improvements contemplated. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the

terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA and the City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

City of Phoenix
City Manager
251 W. Washington St.
Phoenix, AZ 85003

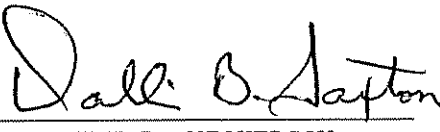
9. Attached hereto and incorporated herein is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF PHOENIX, a Municipal
Corporation, Frank Fairbanks
City Manager

By 
JAMES H. MATTESON, P.E.
Street Transportation Director

STATE OF ARIZONA
Department of Transportation

By 
for ROBERT P. MICKELSON
Deputy State Engineer

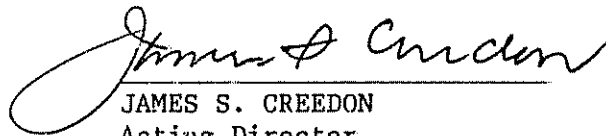
ATTEST

By 
VICKY MIEL
City Clerk

RESOLUTION

BE IT RESOLVED on this 15th day of February 1991, that I, JAMES S. CREEDON, as Acting Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Phoenix for the purpose of defining responsibilities for the construction of improvements to Thunderbird Road.

Therefore, authorization is hereby granted to draft said agreements which, upon completion, shall be submitted for approval and execution by the Deputy State Engineer.

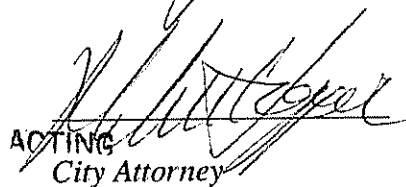

JAMES S. CREEDON
Acting Director
Arizona Department of
Transportation

JPA 91-16

APPROVAL OF THE PHOENIX CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, the CITY OF PHOENIX, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona and the City Charter.

DATED this 17th day of August, 1992.


ACTING
City Attorney

CITY OF PHOENIX, ARIZONA
REQUEST FOR COUNCIL ACTION

Complete this form per O.P. 1-906 and A.R. 4.11.

ACTION Formal Action: Bid Award _____ License Application _____ Other X
REQUESTED Ordinance _____ Resolution _____ Emergency Clause? N (Y/N)

PREPARED BY Name: Daniel P. Matthews Phone: 2-6871 W.P. Doc. No 1512P/41
Backup Material being sent under separate cover? (Y/N) _____

RECOMMENDED Department Name: Street Transportation
BY Date Prepared: 9/2/92 Div. Approval: J. Donald Herb. P.E.
Req. Agenda Date: 9/23/92 Dept Approval: James H. Matteson, P.E.
If prepared for a different department:
Dept. Name/Approval: _____

BID AWARD/ Bid Bond Required? No Performance Bond Required? No
FORMAL ACTION Submitted by Low Bidder? No Amount? \$ _____
Contract Required? No Requisition No _____
Contract Amendment? _____ Current Contract No _____
Approved by: Ord FA on Date: _____

BUDGET \$367,180.00
INFORMATION Source of Funds: Arizona Highway Users Fund
Index Code(s): 2-356005
Subobject(s): 4702
Availability of Funds Approval: Cecile Pattle

CITY MANAGER'S OFFICE

Approved by: Jack Terlin 9/11/92 C.M. Control Number: 5

CITY CLERK DEPARTMENT

RECORDS SECTION File Number: F-1766,6114 RCA Number: 8111

COUNCIL SUPPORT Item Number: 60 Agenda Date: 09 23 92

Ordinance Number: _____ Resolution Number: _____

AGENDA ACTION This Item was: Approved

Contract Number (if applicable): 63612

Comments: _____

DISTRICT NO 2
AGREEMENT WITH THE
STATE OF ARIZONA -
THUNDERBIRD ROAD.
40TH STREET TO
52ND STREET

Request to authorize the City Manager to enter into an agreement with the State of Arizona through its Department of Transportation for improvements to Thunderbird Road from 40th Street to 52nd Street.

These improvements include the installation of new pavement, storm drains, curb and gutter, sidewalks and landscaping.

The City of Phoenix will be responsible for the construction administration of this project. Upon completion, the City will sign, stripe, and maintain the street improvements.

The State shall submit a program containing this project to FHWA with the recommendation that it be approved for construction.

This Federal-Aid Project qualifies for Federal Funds for paving improvements. The estimated total cost of the project is \$2,937,412.00. The breakdown is as follows:

ADOT

Federal Aid Funds	\$2,570,232.00
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CITY OF PHOENIX

Major Street Program Funds*	<u>367,180.00</u>
TOTAL PROJECT COST	\$2,937,412.00

This project is included in the recently-approved Six-Year Major Street and Storm Drain Programs

*Funds are available from the Arizona Highway Users Revenue Fund.

JHM:RJD:DPM:pm:1511P/41



STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
1275 WEST WASHINGTON, PHOENIX 85007

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

GRANT WOODS
ATTORNEY GENERAL


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR91-0247-TRD, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 14th day of October, 1992.

GRANT WOODS
Attorney General


JAMES R. REDPATH
Assistant Attorney General
Transportation Section